

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CHARLES D. J. BARNES,

Plaintiff,

vs.

No. CV 19-00536 MV/KRS

UNITED STATES DISTRICT COURT,
NEW MEXICO CORRECTIONAL FACILITY,
EDDY COUNTY DETENTION CENTER,
PNM,

Defendants.

ORDER TO SHOW CAUSE

THIS MATTER is before the Court *sua sponte*. Plaintiff Charles D.J. Barnes filed his Complaint for Violation of Civil Rights on June 7, 2019. (Doc. 1). Plaintiff did not pay the filing fee or submit an application to proceed *in forma pauperis* at the time he filed the Complaint. The Court entered an Order to Cure Deficiency on June 19, 2019, directing Plaintiff Barnes to either pay the filing fee or submit an application to proceed under 28 U.S.C. § 1915 within thirty days of entry of the Order. (Doc. 2). With the Order to Cure, the Court also provided Plaintiff with a form Application to Proceed in District Court Without Prepayment of Fees or Costs. (Doc. 2 at 2). The Order advised Plaintiff that, if he failed to cure the deficiency within the 30-day time period, the Court could dismiss this proceeding without further notice. (Doc. 2 at 1).

Plaintiff Barnes did not comply with the Court's June 19, 2019 Order. Instead, on July 15, 2019, Plaintiff submitted a Motion for Leave to Proceed on Appeal Without Prepayment of Costs or Fees, rather than submitting the § 1915 Application supplied by the Court. (Doc. 8). Subsequently, On July 29, August 1, and August 2, 2019, Plaintiff sent the Court three letters

purporting to include \$40 partial payments for the filing fee. (Doc. 10, 11, 13). No payment was included with any of the three letters.

More than 30 days has elapsed since entry of the Court's Order to Cure Deficiency and Plaintiff has not paid the \$400 filing fee, submitted an application to proceed under § 1915 in proper form, or otherwise responded to the Court's June 19, 2019 Order. The Court also takes notice that Plaintiff Barnes previously had a prisoner civil rights case dismissed for failing to pay the filing fee, submit an application to proceed under § 1915, or otherwise comply with the Court's orders. *See Barnes v. State of New Mexico*, No. CV 18-01059 RB/LF.

Under 28 U.S.C. §§ 1914(a) and 1915(a), the Court is required collect the filing fee from the Plaintiff or authorize Plaintiff to proceed without prepayment of the fee. Plaintiff has failed to either pay the \$400.00 filing fee or submit an application to proceed under § 1915 in proper form. Therefore, the Court will order Plaintiff to show cause within thirty (30) days of the date of entry of this Order why this proceeding should not be dismissed for failure to comply with the requirements of 28 U.S.C. §§ 1914 and 1915 and with the Court's June 19, 2019 Order to Cure Deficiency. If Plaintiff does not show cause within thirty (30) days, the Court may dismiss this case without further notice.

IT IS ORDERED that Plaintiff Charles D. J. Barnes show cause, within thirty (30) days of entry of this Order, why the Plaintiff's Complaint should not be dismissed for failure to comply with 28 U.S.C. §§ 1914 and 1915 and with the Court's June 19, 2019 Order to Cure Deficiency.

A handwritten signature in dark ink, appearing to read "Kevin Sweazey", is written over a horizontal line.

UNITED STATES MAGISTRATE JUDGE